more information on the effects of AB 2929, see CRLR Vol. 7, No. 2 (Spring 1987) p. 64 and Vol. 7, No. 1 (Winter 1987) p. 56.)

The Bureau's primary objective is to limit abuses among those firms which place individuals in a variety of employment positions. It prepares and administers a licensing examination and issues several types of licenses upon fulfillment of the Bureau's requirements.

The Bureau is assisted by an Advisory Board created by the Employment Agency Act. This seven-member Board consists of three representatives from the employment agency industry and four public members. All members are appointed for a term of four years. As of this writing, seats for one public and two industry members remain vacant.

MAJOR PROJECTS:

Regulations Approved. On May 9, the Office of Administrative Law approved several proposed regulatory changes which were the subject of a January 8 public hearing. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 68 for a complete description of the proposed changes.) Included in the approved package are the Bureau's citation and fine regulations, adopted pursuant to section 125.9 of the Business and Professions Code.

Pilot Enforcement Program. The Bureau is continuing to declare its pilot enforcement program a success. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 7; Vol. 8, No. 1 (Winter 1988) p. 68; and Vol. 7, No. 4 (Fall 1987) p. 63.) During the 1987-88 fiscal year, the Bureau received a higher number of complaints than in the preceding year. In early May, the Bureau turned one of its investigations over to the Federal Trade Commission, resulting in the closure of Overseas Unlimited Agency, a Los Angeles-based computerized job-matching service. The Bureau's enforcement program has also resulted in the recent transfer of six investigations of job listing services to the Attorney General's Office for prosecution.

LEGISLATION:

AB 4554 (Roybal-Allard) would require foreign labor agents who find employment for temporary foreign workers to be licensed by the state. This bill passed the Assembly on May 19 and is pending in the Senate Business and Professions Committee.

AB 4638 (Quackenbush), which failed passage in the Assembly Ways and Means Committee on June 1, would have established a separate category for career counselors; required the Bureau to administer a specialized exam for such persons; and established criteria for applicant eligibility.

SB 2471 (Montoya). Existing law provides that if a nurses' registry collects a fee or expenses for an assignment from a nurse and the nurse fails to obtain the assignment or the nurse fails to be paid for the assignment, the nurses' registry shall repay the fee or expenses collected. This bill would provide that any person who successfully brings an action to enforce that provision shall also be awarded attorney fees and costs. This bill is pending in the Senate Business and Professions Committee.

The following is a status update on measures reported in detail in CRLR Vol. 8, No. 2 (Spring 1988) at page 72:

AB 4007 (Lancaster), the Department of Consumer Affairs' 1988 omnibus bill, would delete specified categories of employment agencies from the Business and Professions Code, thus requiring those agencies to obtain a general license from the Bureau. The bill passed the Assembly on May 19 and is pending in the Senate Business and Professions Committee.

AB 4145 (Wright). Existing law requires the contract for employment counseling services to state the amount of the fee charged to the consumer. This bill would require that the fee be stated for each service received. This bill would also require that a contract provided by a licensee to a jobseeker contain a statement that the licensee will provide a minimum of three job opportunities; specify requirements for fee refunds; and exempt from the Employment Agency Law any employment counseling service which provides services strictly on an hourly basis, with no financial obligation to the consumer beyond the hourly fees for services rendered. AB 4145 passed the Assembly on June 20 and is pending in the Senate Business and Professions Committee, where it is scheduled for an August hearing. At this writing, according to Assemblymember Wright's office, the Department of Consumer Affairs is working with the author on amendments to the measure which might effectively abolish the Bureau.

FUTURE MEETINGS:

To be announced.

BOARD OF PHARMACY

Executive Officer: Lorie G. Rice
(916) 445-5014

The Board of Pharmacy grants licenses and permits to pharmacists, pharmacies, drug manufacturers, wholesalers and sellers of hypodermic needles. It regulates all sales of dangerous drugs, controlled substances and poisons. To enforce its regulations, the Board employs full-time inspectors who investigate accusations and complaints received by the Board. Investigations may be conducted openly or covertly as the situation demands.

The Board conducts fact-finding and disciplinary hearings and is authorized by law to suspend or revoke licenses or permits for a variety of reasons, including professional misconduct and any acts substantially related to the practice of pharmacy.

The Board consists of ten members, three of whom are public. The remaining members are pharmacists, five of whom must be active practitioners. All are appointed for four-year terms.

MAJOR PROJECTS:

Continuing Education Regulations. At its April 6 meeting in Los Angeles, the Board held a public hearing on proposed changes to its complex continuing education (CE) regulations, which appear in Chapter 17, Title 16 of the California Code of Regulations (CCR). (See CRLR Vol. 8, No. 2 (Spring 1988) p. 73 and Vol. 8, No. 1 (Winter 1988) pp. 68-69 for background information and a detailed description of the proposed changes.)

After Continuing Education Committee Chair Glenn Yokoyama summarized the changes, the Board entertained several industry comments and suggestions for amendments. The Board adopted amendments proposed that day to the language of section 1732.3(c) regarding the length of time a recognized CE provider's coursework shall be valid following initial presentation; and section 1732.3(d) regarding required contents of CE providers' advertisements of their CE courses. The Board also voted to add a provision regarding the Board's authority to assign CE hours to inspectors and Board members for certain presentations.

Following its approval of these changes, the Board voted to adopt the proposed CE regulation changes as amended. The regulatory package was submitted to the Office of Administrative Law (OAL) on May 27.

Fee Increases. Also on April 6, the Board held a public hearing on its proposal to amend section 1749, Chapter 17, Title 16 of the CCR, to increase its many licensure fees. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 74 for background information.) The increased fees were already being collected through legislative authority granted in SB 79 (Chapter 657, Statutes of 1987), and the Board desired to conform its regulations with the statute. With two clarifications to the language of the proposed regulations (the delinquent renewal wholesalers' and out-of-state distributors' penalty fee is $150; and the new exemptee license fee is $110), the Board adopted the proposed amendments to section 1749, and planned to submit them to the OAL in mid-July.

Rule Change Approved. On May 10, the OAL approved the Board's proposed amendments to section 1717(a) of its regulations, concerning reuse of clean containers in a licensed health facility for non-liquid oral products; and section 1718.1, regarding the distribution of drugs not bearing a manufacturer's expiration date. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 73 and Vol. 8, No. 1 (Winter 1988) p. 69 for background information.)

LEGISLATION:

SB 2731 (Campbell) would exempt from the definition of "manufacturer" a pharmacy which compounds a drug for parenteral therapy, pursuant to a prescription, for delivery to another person licensed to possess that drug. The bill would also require a pharmacy which compounds a drug for another pursuant to the above provision to report that information to the Board of Pharmacy within thirty days. This bill is pending in the Assembly Health Committee.

AB 513 (Hill), as amended on June 2, would except from the definition of "manufacturer" a pharmacy compounding a drug for parenteral therapy, pursuant to a prescription, for delivery to another pharmacy for delivering or administering the drug to a prescription patient. The bill would also require a pharmacy compounding a drug pursuant to that provision to report that information to the Board within thirty days of commencing that compounding. This bill has passed both houses and is pending in conference committee at this writing.

SB 2469 (Dills), as amended on May 12, would prohibit disposal of a hypodermic needle or syringe in any public place or area unless in a container rendering it safe from an accidental cutting or sticking. This bill, which is pending in the Assembly Health Committee, would exempt the disposal of syringes or needles in a private home or health care facility.

SB 2213 (Craven), as amended on April 21, would require any pharmacy located outside California which ships, mails, or delivers any controlled substances or dangerous drugs or devices into California to register with the Board, disclose specified information to the Board, and meet other conditions. The bill would also authorize the Board to deny, revoke, or suspend a nonresident pharmacy registration for failure to comply with specified provisions of California law and for conduct which causes serious bodily or psychological injury to a California resident if the regulatory agency in the state where the pharmacy is located fails to initiate an investigation into the matter within 45 days of being notified by the Board. Finally, the bill would prohibit specified advertisements with regard to unregistered, nonresident pharmacies. SB 2213 is pending in the Assembly Health Committee.

AB 3578 (Moore), as amended on April 18, would allow licensed drug wholesalers to sell hypodermic syringes and needles without a permit. The bill would also add licensee incompetence, fraud, and deceit as grounds for discipline by the Board, and would allow the Board to recover its investigative and prosecutorial costs in certain cases. The bill also specifies that existing law prohibiting delivery of certain controlled substances to a pharmacy unless a receipt for the merchandise is signed by a pharmacist shall not require a common carrier to label packages in a manner contrary to any federal law or regulation. AB 3578 passed the Assembly on June 9, and is awaiting committee assignment in the Senate at this writing.

AB 2683 (Hughes), as amended on January 21, would prohibit the manufacture, packaging, sale, furnishing, or distribution of prophylactics which fail to conform to standards adopted by the Department of Health Services, and would require the Department to adopt those standards. This bill is pending in the Senate Health and Human Services Committee.

AB 1732 (Isenberg), as amended on May 31, would specifically prohibit persons authorized to prescribe or write a prescription, with the exception of specified clinics, veterinarians, programs, and certain prescribers, from dispensing drugs to patients in his/her office or place of practice unless specified conditions are met, and would prohibit the person from charging a patient more than the prescriber's acquisition cost of the drug product plus 5% for overhead expenses. AB 1732 would also require the Board of Medical Quality Assurance (BMQA) to notify the Board of Pharmacy of the receipt of a complaint relating to serious bodily injury due to drugs dispensed by a prescriber, and would require BMQA to investigate the complaint within thirty days. This bill is pending in the Senate Business and Professions Committee.

AB 2374 (Statham), as amended on May 26, would divert $50 (out of fines and forfeitures collected in municipal and justice courts) for each conviction for offenses related to possession, use, or being under the influence of specified controlled substances; possession or sale of hypodermic needles or syringes; rape; and sodomy. The money would be deposited in a special account in the county treasury to pay for the reasonable costs of establishing and providing an AIDS education program. The program would apply, as a condition of either a sentence of probation or participation in a drug diversion program, to a person pleading guilty to or convicted of any of the crimes described above (except rape and sodomy). This bill is pending in the Senate Appropriations Committee.

AB 3127 (Areias) would require triplicate prescription blanks to have the federal registry number for controlled substances preprinted thereon, and would also amend the routing process for certain prescriptions of controlled substances. This bill is pending in the Senate Judiciary Committee.

AB 3766 (Connelly), as amended on June 9, would authorize courts to order medical practitioners charged with a felony violation of specified controlled substance laws to surrender all triplicate prescription blanks in the practitioner's possession. This bill passed the Assembly on June 9 and is awaiting Senate committee assignment at this writing.

AB 4499 (Felando) would authorize a pharmacist to substitute a generically equivalent drug for a prescribed drug only if it is listed as having a "Code A" by the federal Food and Drug Administration; if it has a "Code B", the pharmacist must obtain authorization from the prescriber prior to substitution. This bill has been pending in the Assembly Health Committee since March 7.

RECENT MEETINGS:

At its January meeting in Monterey, the Credentials Committee requested Board approval of guidelines it had formulated regarding consideration of time worked as a pharmacist in a foreign country toward the 1,500-hour internship experience requirement. Because the Board's internship regulation (section 1728) does not specify criteria for acceptance of pharmacist experience obtained outside the United States, the Board approved the following guidelines for the Committee's use in considering up to 600 hours of foreign graduate intern experience:

-certain types of experience, including pharmacy technician, teaching, and research, will be excluded from consideration;

-the Committee will consider the request for credit for experience only if the individual has a valid California intern registration and has completed 250 intern hours;

-the full 600 hours must be obtained after graduation from pharmacy school;

-the experience must have been obtained within the last three years prior to the request for credit;

-the hours must have been obtained in a country where practice is essentially the same as in the United States; and

-documents and/or affidavits provided on behalf of the applicant must meet specified requirements.

Also at its January meeting, the Board approved an amendment to its disciplinary guidelines. The previous rule barred pharmacists on probation from serving as pharmacists-in-charge; this guideline, however, precluded probationers who own a one-person pharmacy from being his/her own pharmacist-in-charge. The Board adopted an amendment which provides that in appropriate cases, in lieu of the standard provision barring a probationer from being a pharmacist-in-charge, the pharmacist may be required to retain a consultant at his/her own expense, who shall be a licensed California pharmacist, approved by the Board, and not on probation. The consultant pharmacist would be responsible for review of the pharmacy operations for compliance with federal and state statutes and regulations.

At its April meeting in Los Angeles, Maureen Whitmore, Program Director of Occupational Health Services, Inc., presented a status report on the Board's Impaired Pharmacists' Program. The three objectives of the program include protection of the public; assisting impaired pharmacists in the early stages of a substance/alcohol abuse problem; and offering impaired pharmacists a non-punitive, confidential environment. Thus far, 139 pharmacists has participated in the program since its inception. The Board discussed the fact that substance-abuse-related "down-time" (that is, suspension of the pharmacist's license) is often imposed after the impaired individual has begun to participate in the program and has made substantial improvement, but was reminded that the purpose of the program is not punishment but protection of the public.

Also at its April meeting, the Board reviewed and adopted twelve goals and objectives for the next three years, which include the following: development and implementation of pharmacy technician regulations; implementation of a new automated data processing system to increase efficiency of licensing and enforcement operations; increasing consumer protection by implementing recent legislation regarding legend drugs and/or devices, and by increasing liaison activities with consumer groups through participating in meetings, newsletters, and public forums; and reviewing the appropriateness of the current hypodermic statute in light of the AIDS epidemic.

FUTURE MEETINGS:

October 12-13 in Anaheim.
January 12-13, 1989 in San Diego.
March 15-16, 1989 in Sacramento.

POLYGRAPH EXAMINERS BOARD

Executive Officer: Dia Goode
(916) 739-3855

The Polygraph Examiners Board operates within the Department of Consumer Affairs. The Board has authority to issue new licenses and to regulate the activities of an estimated 655 examiners currently licensed in California under Business and Professions Code section 9300 *et seq.* The Board has no jurisdiction over federally-employed polygraph examiners.

The Polygraph Examiners Board consists of two industry representatives and three public members, all appointed to four-year terms. The Board has a sunset date of January 1, 1990.

MAJOR PROJECTS:

Enforcement. An administrative law judge (ALJ) has ruled against a San Pablo polygraph examiner in a case involving the respondent's administration of a polygraph test to a sixteen-year-old who was suspected of stealing from his employer.

The polygraph examiner, Alan Barr Donnelly, administered the exam to the youth in July 1985. During that same month, Donnelly applied for licensure with the Board. Following an investigation into complaints surrounding Donnelly's examination of the youth, the Board denied his application in November 1986, citing numerous violations of state laws governing polygraph examiners. Donnelly immediately appealed.

In upholding the Board's denial of Donnelly's license, the ALJ's May 19 decision included findings supporting Board allegations that Donnelly (1) negligently misinterpreted test results; (2) mishandled the pre-test of the youth (that is, questioning before administration of the actual test for purposes of framing control questions and providing an opportunity to observe the examinee and his reactions to questions) by asking questions which "far exceeded the appropriate scope for a specific examination involving theft"; (3) "coerced and threatened [the examinee] to induce him to consent to a warrantless search" of the youth's bedroom and his father's home; and (4) misrepresented his background and professional standing to the examinee and the youth's parents.

Observing that "the facts of the case herein point to either lack of awareness or blatant disregard for the standards of practice for a polygraph examiner," the ALJ ordered that Donnelly's application for licensure be denied.

This case represents the first time a Board enforcement case has been heard before an administrative law judge.

LEGISLATION:

SB 2219 (Dills) passed the Senate on May 9 on a 34-0 vote and was referred to the Assembly, where it was amended on June 9. The bill would provide that if a license is renewed more than thirty days after its expiration, the licenseholder, as a condition precedent to renewal, shall also pay a specified delinquency fee. A Board-proposed amendment to SB 2219 would permit the Board to recover the costs of investigating and prosecuting disciplinary matters. The amendment would also allow the Board to prorate the costs of license upgrading. SB 2219 passed the Assembly Committee on Governmental Efficiency and Consumer Protection on June 23.

SB 2220 (Dills) died before it was heard in a Senate committee. The bill was an effort to delete the statutory requirement that the Board must pay back a $50,000 loan from the General